



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Internal Management and Fiscal
Responsibility Committee**

Thursday, November 10, 2005
2:00 PM
Commission Chamber

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LEGISLATIVE ANALYSIS

RESOLUTION AUTHORIZING THE COUNTY MANAGER TO EXECUTE DISASTER RELIEF FUNDING AGREEMENT WITH THE STATE OF FLORIDA RELATED TO HURRICANE KATRINA UNDER THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT §§ 42 U.S.C. 5121-5206 (THE "STAFFORD ACT") AND ALL RELATED DOCUMENTS THROUGH HIS DESIGNATED AGENTS ON BEHALF OF THE COUNTY

Finance Department

I. SUMMARY

This resolution authorizes the County Manager to enter into a disaster relief funding agreement with the State of Florida, in order to comply with the provisions of the federal Stafford Disaster Relief and Emergency Assistance Act

II. PRESENT SITUATION

The following are excerpts from "A Guide to the Disaster Declaration Process and Federal Disaster Assistance" (a publication by FEMA)

In 1988, the Robert T. Stafford Disaster Relief and Emergency Assistance Act was enacted to support State and local governments and their citizens when disasters overwhelm them. This law, as amended, establishes a process for requesting and obtaining a Presidential disaster declaration, defines the type and scope of assistance available from the Federal government, and sets the conditions for obtaining that assistance. The Federal Emergency Management Agency (FEMA), now part of the Emergency Preparedness and Response Directorate (EPR) of the Department of Homeland Security, is tasked with coordinating the response.

THE DECLARATION PROCESS

The Stafford Act requires that: "All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State."

The Governor's request is made through the regional FEMA Emergency Preparedness and Response office. State and Federal officials conduct a preliminary damage assessment (PDA) to estimate the extent of the disaster and its impact on individuals and public facilities. This information is included in the Governor's request to show that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the local governments and that Federal assistance is necessary. Normally, the PDA is completed prior to the submission of the Governor's request. However, when an obviously severe or catastrophic event occurs, the Governor's request may be submitted prior to the PDA. Nonetheless, the Governor must still make the request.

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As part of the request, the Governor must take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the results of the disaster, provide an estimate of the amount and severity of damage and the impact on the private and public sector, and provide an estimate of the type and amount of assistance needed under the Stafford Act. In addition, the Governor will need to certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements.

Based on the Governor's request, the President may declare that a major disaster or emergency exists, thus activating an array of Federal programs to assist in the response and recovery effort.

ASSISTANCE AVAILABLE

Not all programs, however, are activated for every disaster. The determination of which programs are activated is based on the needs found during damage assessment and any subsequent information that may be discovered.

FEMA/EPR disaster assistance falls into three general categories:

- Individual Assistance - aid to individuals and households;
- Public Assistance - aid to public (and certain private non-profit) entities for certain emergency services and the repair or replacement of disaster-damaged public facilities;
- Hazard Mitigation Assistance - funding for measures designed to reduce future losses to public and private property.

Some declarations will provide only individual assistance or only public assistance. Hazard mitigation opportunities are assessed in most situations.

PUBLIC ASSISTANCE

Public Assistance, oriented to public entities, can fund the repair, restoration, reconstruction, or replacement of a public facility or infrastructure, which is damaged or destroyed by a disaster.

Eligible applicants include State governments, local governments and any other political subdivision of the State, Native American tribes and Alaska Native Villages. Certain private nonprofit (PNP) organizations may also receive assistance. Eligible PNPs include educational, utility, irrigation, emergency, medical, rehabilitation, and temporary or permanent custodial care facilities (including those for the aged and disabled), and other PNP facilities that provide essential services of a governmental nature to the general public. PNPs that provide "critical services" (power, water--including water provided by

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an irrigation organization or facility, sewer, wastewater treatment, communications and emergency medical care) may apply directly to FEMA/EPR for a disaster grant. All other PNPs must first apply to the Small Business Administration (SBA) for a disaster loan. If the PNP is declined for a SBA loan or the loan does not cover all eligible damages, the applicant may re-apply for FEMA/EPR assistance.

As soon as practicable after the declaration, the State, assisted by FEMA/EPR, conducts the Applicant Briefings for State, local and PNP officials to inform them of the assistance available and how to apply for it. A Request for Public Assistance must be filed with the State within 30 days after the area is designated eligible for assistance. Following the Applicant's Briefing, a Kickoff Meeting is conducted where damages will be discussed, needs assessed, and a plan of action put in place. A combined Federal/State/local team proceeds with Project Formulation, which is the process of documenting the eligible facility, the eligible work, and the eligible cost for fixing the damages to every public or PNP facility identified by State or local representatives. The team prepares a Project Worksheet (PW) for each project. Projects fall into the following categories:

- Category A: Debris removal
- Category B: Emergency protective measures
- Category C: Road systems and bridges
- Category D: Water control facilities
- Category E: Public buildings and contents
- Category F: Public utilities
- Category G: Parks, recreational, and other

For insurable structures within special flood hazard areas (SFHA), primarily buildings, assistance from FEMA/EPR is reduced by the amount of insurance settlement that could have been obtained under a standard NFIP policy. For structures located outside of a SFHA, FEMA/EPR will reduce the amount of eligible assistance by any available insurance proceeds.

FEMA/EPR reviews and approves the PWs and obligates the Federal share of the costs (which cannot be less than 75 percent) to the State. The State then disburses funds to local applicants.

Projects falling below a certain threshold are considered 'small.' The threshold is adjusted annually for inflation. For fiscal year 2003, that threshold is \$53,000. For small projects, payment of the Federal share of the estimate is made upon approval of the project and no further accounting to FEMA/EPR is required. For large projects, payment is made on the basis of actual costs determined after the project is completed; although interim payments may be made as necessary. Once FEMA/EPR obligates funds to the State, further management of the assistance, including disbursement to subgrantees is the responsibility of the State. FEMA/EPR will continue to monitor the recovery progress to ensure the timely delivery of eligible assistance and compliance with the law and regulations.

III. POLICY CHANGE AND IMPLICATION

This resolution maintains County policy of seeking federal assistance in addressing the costs associated with natural disasters, such as hurricanes.

IV. ECONOMIC IMPACT

The resolution will allow the County to seek reimbursement for millions of dollars of disaster relief stemming from Hurricane Katrina. For example, following the three hurricanes of 2004 (Charley, Frances, and Jeanne), Miami-Dade County requested over \$6 million in federal funds.

V. COMMENTS AND QUESTIONS

Federal disaster assistance is particular to each disaster. This resolution applies only to Hurricane Katrina; consequently, Miami-Dade County would have to make a separate application for federal assistance for Hurricane Wilma.